HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.11633 of 1998

Dated 26th day of March, 2007

Between:

Vanam Sankaraiah .. Petitioner

And

The Govt. of A.P.
Rep. by its Secretary,
Muncipal Admn. & Urban Development,
Secretariat Buildings, Hyderabad
and three others .. Respondents

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O R D E R:

This writ petition is filed seeking a mandamus to direct the respondents to pay compensation to the petitioner for the damage caused to the coconut trees in the premises of the 2nd respondent, due to cyclone, and return the lease amount paid by the petitioner for the year 1996-97 and waive the lease amount for the year 1997-1998.

The brief facts of the case are that the petitioner became the highest bidder in the auction held for grant of leasehold rights for the usufruct of the coconut trees in the premises of head-water works of Mandpeta Municipality for the period 1995-96 to 1997-98 and he was granted leasehold rights by the 1st respondent-Municipality for a period of 3 years i.e. from 1.7.1995 to 30.6.1998 at the rate of Rs.31,010/- per each year. This lease was confirmed by the Municipal Council, Mandapeta, by its Resolution No.167, dated 31.6.1995. Accordingly, the petitioner paid the lease amount of Rs.31,010/- each for the years 1995-96 and 1996-97 and enjoyed the usufruct of the trees. On 6.11.1996, due to heavy cyclone, most of the coconut trees were totally damaged. The Government issued instructions to various departments and institutions vide G.O.Ms.No.1043, dated 16.12.1996 for paying adhoc compensation and exgratia to the affected persons, who sustained loss in all the fields including coconut trees, cashew etc. treating the cyclone as natural calamity. Now, the grievance of the petitioner is that though the Agricultural Officer, Mandapeta, inspected the coconut trees and submitted a report with regard to the damage caused to them, the 2nd respondent neither repaid the lease amount for the year 1996-1997 nor paid compensation for the damaged trees.

Heard the learned counsel for both the parties.

As per the scheme of the Government under G.O.Ms.No.1043, dated 16.12.1996, the persons, whose coconut trees were damaged in

the cyclone, are entitled to compensation. Evidently, the petitioner is the lessee, and thus, in my considered view, he is also entitled to claim damages as per the scheme of the Government on par with others to whom compensation was paid. In spite of the fact that the petitioner addressed several letters to the authorities for redressal of his grievance, they have not considered his case.

In the circumstances, this writ petition is allowed and the 4th respondent-District Collector is directed to consider the representation of the petitioner on par with others and pay compensation to the damaged coconut trees in terms of G.O.Ms.No.1043. When once the compensation is paid, it is made clear that the petitioner is not entitled to the refund of the lease amount paid by him for the year 1996-97, and also in view of the fact that there are no trees in the premises of the 2nd respondent because of the effect of the cyclone, the question of usufruct does not arise, and hence, the petitioner need not pay any lease amount for the year 1997-98. No costs.

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26.03.2007

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